



**Planning Division
Meeting Minutes of the
Zoning Board of Appeals
(Draft Subject to Board Approval)**

**REGULAR MEETING OF THE ZONING BOARD OF APPEALS
TUESDAY, JANUARY 19, 2010**

Commissioners Present

Stephen Dauphine
Kenneth B. Lerman
David Bobowski
Mike McGarry

Staff Present

Stephanie Krueel

Commissioners Absent

Robert Luckritz
Meghan Freed

Chairperson Dauphine called the meeting to order.

I. Minutes

The minutes from the November 10, 2009 meeting were not addressed.

II. Public Hearing

- a. **220 Murphy Road** – *Appeal of a decision to deny a zoning permit requesting to warehouse biomedical waste and/or chemotherapy waste.*

The applicant, Healthcare Waste Solutions, Inc., and the property owner, Joseph Sulo, were represented by attorney Dan Silver. Mr. Silver described the current use of the property (a warehouse used for clean, empty biomedical waste containers for distribution to clients.) He then described the current business operations wherein full containers go straight from their routes to the biomedical waste treatment facility in Oneonta, NY. This application is for a permit to consolidate waste from 20'-24' route trucks into larger 48'-50' trailers to reduce trips to the NY treatment facility. No medical waste would be stored on the premises. Mr. Silver tried but was unable to meet to discuss the application in detail with the Planning Division or Corporation Council and as a result he believes there is a misunderstanding among staff as to what the applicant is proposing.

The applicant does not agree that the proposed use constitutes "storage." Storage is not defined in the Hartford Code or Ordinances or the Connecticut State Statutes, and the applicant feels the proposed use more closely resembles the federal definition of Transport or transportation (movement of property and loading, unloading or storage incidental to movement) than it does the local and state definition of a Biomedical Waste Treatment Facility (BWTF). If the Board finds that the use is not a BWTF, then approval could be subject to conditions. However, if the Board finds that the use is a BWTF, then the use would be regulated by the State, since case law establishes that when a State demonstrates

the intent to occupy the entire field of regulation on a matter, local zoning ordinances are preempted.

Richard Geisser, the VP of Operations for HWS gave a powerpoint presentation to explain the existing and proposed operations in more detail. Board member McGarry inquired as to how much of the waste is body parts, how long the waste sits around, if the trucks are airtight, if any spills have ever occurred, if trucks ever have accidents, and how odor is prevented in unusual situations (hot summers, large loads, etc.). Mr. Geisser replied that a very small percentage is that type of waste, and it typically does not sit for more than 48 hours, although DEP regulations permit waste to be stored at a site for up to 72 hours before refrigeration is required. The waste is sealed within the containers, no spills have ever occurred during vehicle accidents or otherwise, and that odor is prevented through refrigeration when unusual conditions occur. If a spill were to occur, the trucks and drivers have emergency response capabilities as required by DEP.

Mr. Dauphine asked if DEP inspects their facilities regularly. Mr. Geisser replied that currently they do not, as the existing use is a warehouse, however if they were to become a consolidation facility, DEP would inspect as per the requirements of the permit. Mr. Bobowski inquired whether pathological material was separated by the generator. Mr. Geisser replied that it is, but no additional segregation would take place at Murphy Road- it all takes place in Oneonta, where a small percentage of the waste is then taken to South Carolina where it is incinerated as per DEP regulations.

Mr. Geisser stated that the new use would help the company to reduce their carbon footprint by reducing the number of long haul trips to Oneonta. The long haul component can be about one third of the cost of business; therefore consolidation could save them one quarter to one third of their costs. These savings are passed to the customer, which makes HWS more competitive with Stericycle, which is the US market leader. Mr. McGarry inquired as to the percentage of business that comes from the City of Hartford as opposed to the surrounding towns. Mr. Geisser replied that about 50% of their business comes from Hartford. They are the sole servicer of St. Francis Hospital, and they provide reusable sharps service for Hartford Hospital. Mr. Bobowski asked how long they have been at Murphy Road. Mr. Geisser replied that HWS acquired the company Medical Waste Management, which had been on Murphy Road for 6 years. HWS has been at 220 Murphy Road for two years.

Mr. Silver ventured that the Zoning Administrator had denied the permit based on the word "storage" in the definition of BWTF. However, the courts have said that "common sense plays an essential part" in interpreting codes. Storage is not a primary part of a BWTF, and the proposed use is not essentially a BWTF. When Mr. Silver realized that the staff might need clarification pertaining to operations, he withdrew his client's application.

Mr. McGarry noted that the permitted 72 hour window allowing on-site storage bothered him in the case of a "worst case scenario." Mr. Bobowski noted that environmental regulations were the purview of the DEP, and if they thought that time period was safe, then it wasn't the ZBA's place to decide otherwise. Mr. Silver requested an aside with his Client.

Mr. Sulo, the property owner, described HWS as a first class operation that was impeccably clean, generated little traffic, and paid their rent on-time.

Mr. Bobowski stated that the ZBA's task is to decide whether or not the proposed use is a BWTF. The process would be to overrule the zoning administrator, sign the permit, and HWS would then seek a DEP permit. Mr. Lerman asked Mr. Silver what the use should be defined as. Mr. Silver replied "warehousing."

- b. **255 Homestead Avenue** – *Variance to allow transient lodging within a 1000 feet of another transient house, rooming/boarding house or lodging house use.*

Mr. Lerman disclosed that he knows Mark Fisher, the architect, personally, and that that would not affect his decision. Mr. Bobowski disclosed that he knows Mary Ellen Shuckerow, Director of Development and Community Relations at the Chrysalis Center, personally, and that that would not affect his decision. Mr. Fisher gave a site overview. Ms. Shuckerow explained that Chrysalis has spent the last 7 years redeveloping the site and that the second floor had always been intended for 24/7 activity. Mr. Anthony Hebert of Chrysalis explained that the variance would be to allow 11 beds of transient housing for people transitioning out of group homes with the goal to give them skills to live independently- a hand up, not a hand out. The applicant needs to get the proper zoning in order to get funding to run a program with 24/7 staff. Mr. Dauphine inquired as to how long clients would stay. Mr. Hebert replied that based on the needs of the individual, each would stay between 3 months and one year. Mr. McGarry asked where the clients are from and if there is a regional or local draw. Mr. Hebert responded that the clients for the transient lodging would probably come from the Capitol Region Mental Health Center, and other clients come only from other Hartford facilities. This will serve only the local population. Mr. Lerman asked what type of people would the transient lodging serve. Mr. Hebert replied that it is dictated by funding, but that no sex offenders or violent individuals would be accepted into the program. Only individuals who want to work to become part of the community will be in the program. The lodging will have 24/7 multiple staff, and the facility has a smart security system with 48 live cameras both indoors and outdoors. There is no restraint or lock-down system. Residents will be under clinical care outside of the facility, but will not receive any medical treatment at 255 Homestead Ave.

There is a Salvation Army facility within 1,000 feet of the Chrysalis Center, with an 85-100 bed shelter for men and women. Concerned about the concentration of transient lodging, Mr. Lerman worried that the remaining 25,000 square feet (out of the 65,000 total square feet) could be used to expand the residential component once a variance was granted. The applicants assured the Board that plans for the remaining space did not and could not include residential uses due to the layout. Mr. Bobowski asked how many clients per day come through the facility. Approximately 40 clients come in per day to take classes or socialize, and 550 clients are seen per year. 90 staff members are on site every day, but they are mainly case managers who work in the community. 50-60 people can be expected to be in the building at any time. Mr. Lerman asked if the center pays property tax. Ms. Shuckerow explained that they paid property tax the first year, but they are grandfathered not to pay taxes. Chrysalis Center is a 501 (c) 3, but the building will be owned by a non-profit LLC for tax purposes. Mr. McGarry asked why so much parking has been provided. Parking is available for the future 8,000 sf conference center and classes.

Mrs. Krueel read into the record an email from the Upper Albany NRZ and Upper Albany Neighborhood Collaborative requesting that the matter be referred to the NRZ prior to the Board rendering a decision. Ms. Shuckerow noted that she was not aware that she needed to go to the NRZ prior to the ZBA hearing, but she had spoken to Patricia Williams of the UANC today, and she had no particular reaction. The NRZ does not meet regularly. Mr. Bobowski noted that the ZBA always looks to the neighborhoods before taking action and proposed that the case be continued and voted on at the next meeting pending a letter of support (or lack of response) from the NRZ.

The hearing was closed.

II. Regular Meeting

- a. **220 Murphy Road** – The Board discussed potential conditions to place on the use. A motion was made by Mr. Lerman and seconded by Mr. McGarry to overturn the Zoning Administrator's decision based on findings that the proposed use does not meet the definition of a Biomedical Waste Treatment Facility. The Board adopted a resolution to allow the proposed use with the following conditions:
 - a. All medical waste in transport trucks may be consolidated into larger transport trucks, and shall be refrigerated or must vacate the premises within 48 hours of entry;
 - b. The use shall not be expanded to medical waste treatment or storage; and
 - c. The permitted use shall be general warehousing and inside storage.

The vote was four in favor, zero against.

- b. **255 Homestead Avenue** – A motion was made by Mr. Bobowski and seconded by Mr. Lerman to continue to the hearing to the February 2, 2010 meeting. The vote was four in favor, zero against.

III. New/Old Business

Adjournment

The meeting was adjourned.

Respectfully submitted,

Stephanie Krueel